

**ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE
DIVISION IV**

CA06-540

January 31, 2007

ALVIS W. GREGORY
APPELLANT

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION [NO. F402498]

V.

ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT, ET
AL.

APPELLEES

AFFIRMED

The appellant in this workers' compensation case sustained a compensable shoulder injury in the course of his employment as a mechanic. Appellant received appropriate benefits for his shoulder injury, but subsequently alleged that he also sustained an injury to his cervical spine in the same accident that injured his shoulder. After a hearing, the Arkansas Workers' Compensation Commission found that appellant failed to prove that his cervical spine condition was caused by his employment. On appeal, appellant argues that the Commission's findings are not supported by substantial evidence. We affirm.

In determining the sufficiency of the evidence to support the findings of the Commission, we view the evidence and all reasonable inferences deducible therefrom in the

light most favorable to the Commission's findings, and we affirm if the decision is supported by substantial evidence. *Wal-Mart Stores, Inc. v. Sands*, 80 Ark. App. 51, 91 S.W.3d 93 (2002). Substantial evidence is evidence that a reasonable person might accept as adequate to support a conclusion. *Olsten Kimberly Quality Care v. Pettey*, 328 Ark. 381, 944 S.W.2d 524 (1997). We will not reverse the Commission's decision unless we are convinced that fair-minded persons with the same facts before them could not have reached the conclusions arrived at by the Commission. *White v. Georgia-Pacific Corp.*, 339 Ark. 474, 6 S.W.3d 98 (1999). The determination of the credibility and weight to be given a witness's testimony is within the sole province of the Commission; the Commission is not required to believe the testimony of the claimant or any other witness, but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Wal-Mart Stores, Inc. v. Sands, supra*. The Commission has the duty of weighing the medical evidence as it does any other evidence, and its resolution of the medical evidence has the force and effect of a jury verdict. *Id.* Where, as here, the Commission has denied a claim because of the claimant's failure to meet his burden of proof, the substantial evidence standard of review requires that we affirm if the Commission's opinion displays a substantial basis for the denial of relief. *Williams v. Arkansas Oak Flooring Co.*, 267 Ark. 810, 590 S.W.2d 328 (Ark. App. 1979).

Appellant bore the burden of proving that his cervical spine injury was compensable. Appellant alleged that the cervical injury was caused by the same accident that injured his

shoulder. Therefore, in order to prove that his injury was compensable, he was required to establish that he sustained an injury causing internal or external physical harm to the body arising out of and in the course of employment which was caused by a specific incident identifiable by time and place of occurrence. Ark. Code Ann. § 11-9-102(4)(A)(i) (Repl. 2002). The term "arising out of the employment" relates to the causal connection between the claimant's injury and his employment. *City of El Dorado v. Sartor*, 21 Ark. App. 143, 729 S.W.2d 430 (1987). An injury arises out of one's employment when a causal connection between work conditions and the injury is apparent to the rational mind. *Id.*

Therefore, the sole question in this appeal is whether there is a substantial basis in the Commission's opinion to support the finding that appellant failed to prove that his workplace accident caused his cervical condition. We hold that there is. The Commission, in its opinion, noted that appellant's physician, Dr. Debout, stated that he felt that appellant's cervical condition was related to his work-related shoulder injury. The Commission found that Dr. Debout's opinion lacked credibility because (1) there were no medically-documented complaints relating to a cervical condition until six months after the shoulder injury; (2) appellant engaged in a number of activities in the interim period, including fishing tournaments, and first experienced a sudden onset of acute pain related to a cervical injury while he was fishing; and (3) Dr. Debout's opinion as to causation was based on an "inaccurate history provided by" appellant.

The Commission's finding regarding an "inaccurate history" was not explained in any detail. Nevertheless, we think that the evidence that a considerable amount of time elapsed between the workplace accident and the onset on the cervical condition, together with the sudden acute onset of the cervical condition while appellant was fishing, raised sufficient doubt as to causation to provide a reasonable basis for finding that appellant failed to prove that his cervical condition was work-related.

Affirmed.

GRIFFEN and VAUGHT, JJ., agree.